

NATIONAL INDIAN GAMING COMMISSION

IN THE MATTER OF)

TWENTY-NINE PALMS)

BAND OF MISSION INDIANS)

Ref. No. NOV-99-02

Date: June 3, 1999

Decision of the National Indian Gaming Commission

Nature of the Action

The Chairman, National Indian Gaming Commission, issued a Notice of Proposed Civil Fine Assessment in the amount of \$10,000 to the Twenty-Nine Palms Band of Mission Indians on February 17, 1999, as a consequence of the tribe's untimely filing of an audit report for 1998, its failure to provide an audit report for 1996, and its failure to provide management letters for both years. The underlying NOV alleging the failure to submit both audit reports and management letters for 1996 and 1998 was not contested by the tribe. In their appeal to the Notice of Proposed Civil Fine Assessment, the tribe waived a hearing and requested that the appeal be considered by the Commission on written submission only.

Discussion

The Commission has considered the matters submitted with the appeal and the previous application of the factors used to determine a proposed civil fine assessment which are provided in its regulations at 25 C.F.R. § 575.4. After carefully applying those factors to the facts and circumstances of this case, the Commission reaches the following conclusions:

1. There appears to have been no economic benefit to the tribe as a consequence of the tribe's non-compliance with the requirement to submit annual audit reports and management letters in a timely manner. Although significantly delayed, the final audit reports were completed by an independent auditing firm and provided to the NIGC as required.
2. The violation, while serious, did not constitute a lasting threat to the integrity of Indian gaming. All audit reports and management letters have now been submitted.
3. There is not a history of prior violations by the tribe.
4. The failure to provide the audit report and management letters in a timely manner and to comply with corrective measures is the product of willful conduct. The Commission notes that in the letter dated October 2, 1998, submitting a draft audit report to the NIGC for the period ending February 28, 1998, the tribe's General Counsel stated that the final copy would be forwarded in the near future. In a telephone conversation initiated by an NIGC staff member on

Final Decision on Appeal and Order of Civil Fine Assessment (continued)

Re: NOV-99-02

December 2, 1998, the General Counsel reiterated that the audit report and management letter would be sent to the NIGC. The audit report was not received until after a Notice of Violation was issued on January 14, 1999. The management letter was not received until March 1, 1999. Failure to submit the audit and the management letter despite pledges to do so constitutes willful rather than inadvertent conduct, in the Commission's view.

5. The tribe has not demonstrated a measure of good faith in attempting to achieve rapid compliance after notification of the violation. While the final 1998 audit report was submitted shortly after the Notice of Violation was issued, the final 1996 audit report and management letters for both the 1996 and 1998 audit reports were not received at the Commission until March 1, 1999.

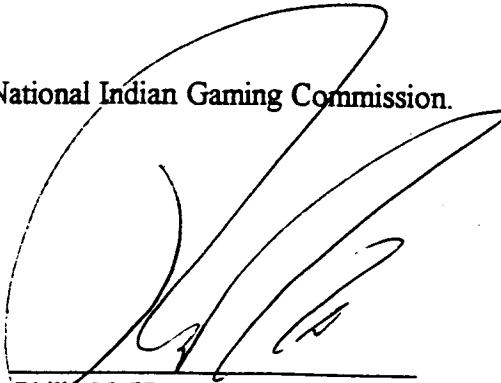
Decision

Accordingly, the Commission determines that a reduction in the amount of the Proposed Civil Fine Assessment is appropriate and directs that a fine in amount of **seven thousand five hundred dollars (\$7,500.00)** is assessed against the Twenty-Nine Palms Band of Mission Indians.

This is the final decision of the National Indian Gaming Commission.



Montie R. Deer
Chairman



Philip N. Hogen
Vice Chairman

June 3-99

Date

Certificate of Service

I, Margarita Ramos, an employee of the National Indian Gaming Commission, Washington, DC, hereby certify that on this date I sent by certified mail a copy of the decision of the National Indian Gaming Commission dated June 3, 1999, in the Matter of Twenty-Nine Palms Band of Mission Indians to Dean Mike, Chairman, Twenty-Nine Palms Band of Mission Indians, 46-200 Harrison Street, Coachella, CA 92236.

June 7, 1999
Date

Margarita Ramos
Margarita Ramos